

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF NORTH CAROLINA

RECEIVED
CHARLOTTE, N.C.
JUN - 7 2012
Clerk, U. S. Dist. Court
W. Dist. of N. C.

DIANNE B. BOYTER Pro Se
DIRK E. BERGHMANS, Pro Se

Plaintiffs,

vs.

BANK OF AMERICA CORPORATION;
BANK OF AMERICA HOME LOANS
SERVICING, LP;
SUCCESSORS IN INTEREST TO
COUNTRYWIDE FINANCIAL
JOHN AND JANE DOES 1- 10,

Defendants.

CASE NO. 3:12-CV-189

VERIFIED
MOTION TO SHOW
AUTHORITY TO REPRESENT

JUDGE: ROBERT J. CONRAD, JR.

NOW COMES THE PLAINTIFFS Dianne B. Boyter and Dirk E. Berghmans,
and states as follows:

1. Plaintiffs commenced the civil action on March 26, 2012 and promptly filed a Lis Pendens with the Union County, N.C. Clerk of Court, pursuant to North Carolina General Statute § 1 – 116.
2. Plaintiffs mailed a true and accurate copy of the Notice of Lis Pendens, copy attached herewith, to Defendants (hereinafter “BOA” collectively) by USPS Certified Mail – Return Receipt Requested on March 26, 2012. BOA received and signed for the Lis Pendens on March 27, 2012.

Plaintiffs did not serve BOA with the Summons and Complaint at that time.

3. Ms. Natasha M. Barone, an attorney at Hutchens, Senter, Kellam & Pettit, P.A., (hereinafter “Mrs. Barone”) attempted to contact Plaintiffs via telephone and e mail during the week of April 16, 2012 in order to ascertain from Plaintiffs if the Complaint upon BOA had been served, and if so, if Plaintiffs had received the return receipt for the certified mail.

4. Mrs. Barone sent an e mail to Plaintiffs on April 19, 2012, copy attached herewith, claiming to have been retained by BOA in the action filed by Plaintiffs. Yet, Mrs. Barone sought from Plaintiffs the most basic facts relative to the civil action, information that should be readily available from BOA; specifically, if her purported clients BOA had been served and if so, had Plaintiffs received the return receipt for the certified mail.

5. Plaintiffs allege if Mrs. Barone has been retained by BOA, Mrs. Barone would have, or should have known whether or not BOA had been served, and what method used to serve.

6. Plaintiffs were informed in August, 2011 that the law firm of Blank Rome, LLP represents Defendants. Plaintiffs elected not to respond to Mrs. Barone's requests for information.

7. On April 20, 2012 Mrs. Barone and colleague J. Scott Flowers (hereinafter “Mr. Flowers”) filed a Motion For Extension Of Time to Respond To Complaint on behalf of Defendants, asserting to the Court, inter alia, “Defendant BOA received the Summons and Complaint

on or about March 30, 2012” and “Defendant BOA and its counsel do not have sufficient time to confer and prepare a responsive pleading within the allotted time”. The Motion was so ordered by The Honorable David C. Keesler on April 23, 2012.

8. Plaintiffs filed Verified Opposition to the Motion and a Motion To Vacate the Order on May 2, 2012 asserting, inter alia, “Defendant's BOA have not been served with the Summons and Complaint, as alleged by Movant”. Plaintiffs raised additional concerns “As the Summons and Complaint have not yet been served on Defendants, Plaintiffs are unsure as to the authenticity or authority of those purporting to represent Defendants in this civil matter”.

9. Mrs. Barone and Mr. Flowers withdrew its Motion for Extension Extension of Time filed on May 21, 2012 in order to allow Plaintiffs to effectuate proper service upon BOA. Mrs. Barone asserts in Motion that Defendant BOA informed her that a Lis Pendans, Summons and Complaint with a blank Proof of Service was received by them on or about March 30, 2012. Plaintiffs deny having sent Summons and Complaint at that time.

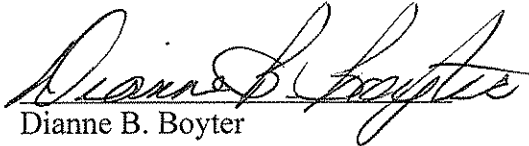
10. Plaintiffs allege Mrs. Barone and Mr. Flowers, have not been sufficiently informed by BOA as to the basic information relative to the civil complaint.

11. Plaintiffs further allege Mrs. Barone and colleague Mr. Flowers are attempting to rely on information given them by Plaintiffs, rather than their purported client, BOA.

CONCLUSION

In light of Counsel's dissemination of erroneous information, and lack of knowledge of the most minor aspects of the civil matter at hand, Plaintiffs Dianne B. Boyter and Dirk E. Berghmans respectfully moves the Court to instruct Mrs. Barone and colleague Mr. Flowers to prove authority to represent Defendants pursuant to, inter alia, Federal Rules of Evidence Public Law 93-595, Rule 1 of the F. R. Civ. P. and N.C. Gen. Stat. § 84-11. Plaintiffs demand evidence he and she are duly authorized to represent the party of which he and she claim. Plaintiffs move the Court to instruct Counsel to bring forth and file in the record, certified documented proof of such authority.

Respectfully submitted this the 5th day of June, 2012.



Dianne B. Boyter
5909 Four Wood Drive
Matthews, N.C. 28104
(704) 650-4431
pariss@carolina.rr.com

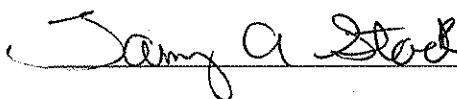


Dirk E. Berghmans
5909 Four Wood Drive
Matthews, N.C. 28104
(704) 400-2912
dberghmans@carolina.rr.com

North Carolina
Mecklenburg County

I, Tammy A. Stork a Notary Public for said County and State do hereby certify that Dianne B. Boyter and Dirk E. Berghmans personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 5th day of June, 2012.

 Notary Public

My commission expires: ~~MY COMMISSION EXPIRES AUGUST 24, 2012~~

CERTIFICATE OF SERVICE

We, Dianne B. Boyter and Dirk E. Berghmans, do hereby certify
that on June 5, 2012, we caused to be deposited in the USPS mail, a Verified
Motion to Show Authority to Represent to Complaint 3:12-CV-189.

Office of the Clerk of Court
United States District Court
Room 210, Charles R. Jonas Building
401 W. Trade Street
Charlotte, N.C. 28202

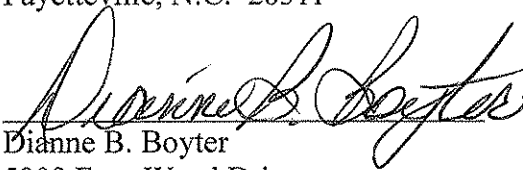
Bank of America Corporation
100 North Tryon Street
Charlotte, N.C. 28255-0001

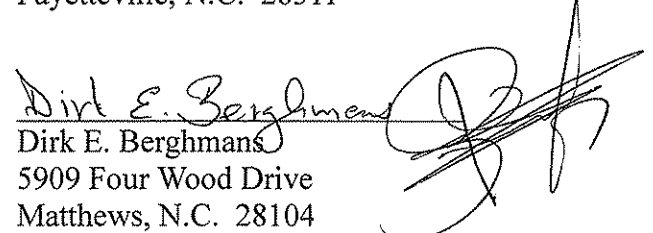
Bank of America Home Loans Servicing
100 North Tryon Street
Charlotte, N.C. 28255-0001

John and Jane Does 1-10
Identity and Address Unknown

J. Scott Flowers
The Law Firm of Hutchens, Senter,
Kellam & Pettit, P.A.
4317 Ramsey Street
Fayetteville, N.C. 28311

Natasha M. Barone
The Law Firm of Hutchens, Senter,
Kellam & Pettit, P.A.
4317 Ramsey Street
Fayetteville, N.C. 28311


Dianne B. Boyter
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pariss@carolina.rr.com
(704) 650-4431


Dirk E. Berghmans
5909 Four Wood Drive
Matthews, N.C. 28104
dberghmans@carolina.rr.com
(704) 400-2912

Pariss

From: "Natasha M. Barone" <Natasha.Barone@hsbfirm.com>
To: "Pariss" <Pariss@carolina.rr.com>
Sent: Thursday, April 19, 2012 10:54 AM
Subject: RE: Case No. 1040263
Ms. Boyter,

I have been retained to represent Bank of America in the action you filed in the Western District of North Carolina bearing the file number 12-cv-189. I am writing to inquire whether you have attempted service of your complaint upon Bank of America yet and if so, if you have received the return receipt for the certified mail?

Thank you for your assistance.

Natasha

Natasha M. Barone
Attorney at Law
Hutchens, Senter, Kellam & Pettit, P.A.
4317 Ramsey Street
Fayetteville, NC 28311
910.864.6888, ext. 1293
910.864.6848 fax

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p style="font-size: 1.2em; font-family: cursive;">BANK OF AMERICA ATTN: BRIAN MOYKATHAN 100 N. TRYON ST. Charlotte, N.C. 28255-0001</p> <p>2. Article Number (Transfer from service label)</p> <p style="font-size: 1.2em; font-family: monospace;">7010 3090 0001 4882 4209</p>	<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) MAR 27 2012 C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p style="font-size: 1.2em; font-family: cursive;">BANK OF AMERICA HOME LOAN SERV. 100 N. TRYON ST. Charlotte, N.C. 28255-0001</p> <p>2. Article Number (Transfer from service label)</p> <p style="font-size: 1.2em; font-family: monospace;">7010 3090 0001 4882 4216</p>		<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) MAR 27 2012 C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p style="font-size: 1.2em; font-family: cursive;">J. R. Rowell Union County Clerk of Court 400 N. Main St. Monroe, N.C. 28111</p> <p>2. Article Number (Transfer from service label)</p> <p style="font-size: 1.2em; font-family: monospace;">7010 3090 0001 4882 4193</p>	<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) 3/27/12 C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

YOUR NAME

DIANNE B. BOYTER

DIRK E. BERGHMANS

v.

BANK OF AMERICA CORPORATION;

BANK OF AMERICA HOME LOANS SERVICING, LP

JOHN AND JANE DOES 1- 10

CIVIL ACTION No.:

3:12cv189

Defendants.

NOTICE OF LIS PENDENS

**TO: THE ABOVE NAMED DEFENDANTS AND
ALL OTHERS IT MAY CONCERN:**

YOU ARE NOTIFIED of the institution of this action in the United States District Court, Western District of North Carolina, by the Plaintiff, against you, seeking the release of real property located in Matthews, Union County, North Carolina described as follows:

5909 Four Wood Drive, Matthews, N.C. 28104

Being all of Lot 129 of Emerald Lake, Phase 2, Section 4, as same is shown on a map thereof recorded in Plat Cabinet G, at File No. 684, in the Union County Public Registry. Together with improvements located thereon; said property being located at 5909 Four Wood Drive, Matthews, North Carolina, and recorded in Book 4268, Page 742, in Union County Registry.

and for other relief.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

March 26, 2012

Dianne B. Boyter (Seal)

5909 Four Wood Drive
Matthews, N.C. 28104
Tel: 704 650-4431

PRO SE PLAINTIFF/SETTLER

CERTIFICATE OF SERVICE

I, DIANNE BOYTER, hereby certify that on March 26, 2012, I served the foregoing with the original to the Clerk of Court and a true and correct copy to the following parties by First Class Mail:

BANK OF AMERICA CORPORATION	BANK OF AMERICA HOME LOANS
ATTN: BRIAN MOYNAHAN	SERVICING, LP.
100 N. TRYON STREET	100 N. TRYON STREET
CHARLOTTE, N.C. 28255-0001	CHARLOTTE, N.C. 28255-0001

J. R. ROWELL	JOHN AND JANE DOES 1 - 10
UNION COUNTY CLERK OF COURTS	IDENTITY UNKNOWN AT THIS TIME
400 NORTH MAIN STREET	
P.O. BOX 5038	
MONROE, N.C. 28111 - 5038	

B DIANNE B. BOYTER (Se
y: _____ al)
Your name